

KENNEDY, JENNIK & MURRAY, P.C.

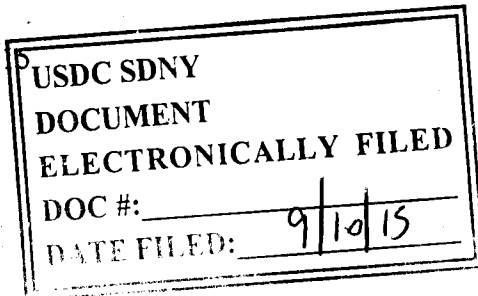
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September 9, 2015

THOMAS M. KENNEDY
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MEMO ENDORSED



Via ECF

Hon. Colleen McMahon
U.S. District Court for the Southern District of New York
500 Pearl Street, Room 1640
New York, NY 10007

Re: Moore, et al. v. Navillus Tile, Inc., et al., 14-CIV-8326 (CM)(JLC)

Dear Judge McMahon:

I write as counsel to Plaintiffs in the above-referenced case to advise that I have been served with the attached Grand Jury Subpoena issued by the U.S. Attorney, E.D.N.Y.

The Subpoena seeks, *inter alia*, discovery documents produced in this case. Certain documents have been produced to us and marked "Confidential" by Defendants, and by subpoenaed third parties, pursuant to a Confidentiality Stipulation, signed by Your Honor on January 14, 2015. (Docket No. 37.)

The Confidentiality Stipulation does not contain an exception for compliance with a subpoena. Therefore, I request your authorization to comply with the Subpoena and produce all discovery documents, including those marked "Confidential" pursuant to the Confidentiality Stipulation.

Defendant Navillus does not oppose this request. The remaining Defendants have not expressed opposition to this request. I am in the process of contacting the subpoenaed parties who produced documents marked "Confidential" in discovery in this case. I will advise the Court of any parties who oppose the production of their documents in compliance with the Subpoena served on me.

Thank you for your consideration of this request.

Respectfully submitted,

Handwritten signature of Thomas M. Kennedy in black ink.

Thomas M. Kennedy

Encl.
cc: All Counsel

So Ordered

Handwritten signature of the U.S. District Judge in black ink.

U.S.D.J.

Date

AO 110 (Rev. 05/09) Subpoena to Testify Before a Grand Jury

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

SUBPOENA TO TESTIFY BEFORE A GRAND JURY

To: Thomas Kennedy, Esq.

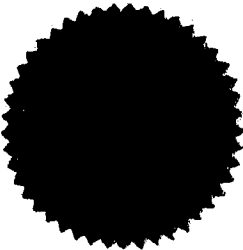
YOU ARE COMMANDED to appear in this United States district court at the time, date, and place shown below to testify before the court's grand jury. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: U.S. District Court, Eastern District of New York
225 Cadman Plaza East, 5th Floor, Room N547
Brooklyn, New York 11201

Date and Time:
September 16, 2015 10:00 am

You must also bring with you the following documents, electronically stored information, or objects (*blank if not applicable*):

You are required to produce the non-privileged documents described on the annexed attachment as related to the civil action in Moore v. Navillus et al.



Date: 07.15.2015

DOUGLAS C. PALMER

CLERK OF COURT

Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the United States attorney, or assistant United States attorney, who requests this subpoena, are:

Assistant U.S. Attorney Martin E. Coffey, U.S. Attorney's Office, Eastern District of New York
271 Cadman Plaza East, Brooklyn, New York 11201
Martin.Coffey@usdoj.gov
(718) 254-6157

AO 110 (Rev. 06/09) Subpoena to Testify Before Grand Jury (Page 2)

PROOF OF SERVICE

This subpoena for *(name of individual or organization)* _____
was received by me on *(date)* _____

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Attachment to Grand Jury Subpoena

To: Thomas Kennedy at Kennedy, Jennik & Murray, P.C.
113 University Place, 7th Floor
New York, NY 10003
(212)358-1500

As described below, for the period from January 1, 2006 to the date of this grand jury subpoena, you are required to produce all non-privileged records, documents, memoranda, and papers within your possession, custody, and control, including, but not limited, to the following items:

I. Any and all records, including computer and/or electronic records related to the following Funds, including, but not limited to:

Metal Lathers Local 46 Pension Fund
Metal Lathers Local 46 Trust Fund
Metal Lathers Local 46 Annuity Fund
Metal Lathers Local 46 Vacation Fund
Metal Lathers Local 46 Apprenticeship Fund
Metal Lathers Local 46 Scholarship Fund
Cement and Concrete Workers Pension Trust Fund
Cement and Concrete Workers Welfare Trust Fund
Cement and Concrete Workers Annuity Trust Fund
Cement and Concrete Workers Scholarship Trust Fund
Cement and Concrete Workers Training and Education Trust Fund
New York City District Council of Carpenters Pension Fund
New York City District Council of Carpenters Welfare Fund
New York City District Council of Carpenters Apprenticeship Journeyman Retraining,
Educational and Industry Fund
New York City District Council of Carpenters Annuity Fund
(hereinafter, the "Funds")

A. These records should include, but not be limited to:

1. the Complaint related to the civil case 14-CV-08326 (the "Civil Action");
2. Answers to the Complaint;
3. Bills of Particular;
4. Answers to Interrogatories;
5. Depositions of any party named in the Complaint;
6. Depositions of any non-party witness;

7. Union Plan documents and any amendments of the Funds;
8. Summary Plan Description of the Funds;
9. Trust Agreement with any amendments of the Funds;

B.. Any and all documents indicating, in a summary format if available, the information specified below for all claims to the Funds by the following named individuals and their dependents:

- a) Donald O'Sullivan
- b) Kevin O'Sullivan
- c) Kathleen O'Sullivan
- d) Eoin Moriarty
- e) Helen O'Sullivan
- f) John Kuefner
- g) Hazelyn Corcoran
- h) John Brennan
- i) Ezequiel Arias
- j) Julio Beniquez
- k) Vincent, Cienfuegos
- l) David Constant
- m) David Dragone
- n) Jose Gamero
- o) Delfino Leon
- p) Frank Rinaldo
- q) Ian Rubenstein
- r) Derek Wrynn
- s) James Young
- t) Fabian Haredia
- u) Tashi Tsering
- v) Leandro Andrade
- w) John Fisher

This information should include:

- A. Date claim received.
- B. Amount of claim.
- C. Disposition of claim, i.e. approved, denied, partially approved, etc.
- D. Amount of claim borne by Funds;
- E. Amount of claim borne by participant;
- F. Instances of cash reimbursements remitted to participants for claims;

G. Date claim or claim run was forwarded to the Funds;

H. Enrollment forms of all of the above-named individuals participating in the Funds;

I. Payments and reimbursements for benefits received by the Funds and/or by the participants named above;

J.. Lists of all services and medical benefits provided by the Funds to each participant, including, but not limited to, fringe benefits such as dental, vision, life insurance and flexible spending.

K.. Non-privileged communications with the Funds' administrators, trustees and any other individual regarding the above-named individuals.

YOU ARE TO PROVIDE THE FOLLOWING INFORMATION PERTAINING TO ALL PLAINTIFFS IN THE ABOVE-REFERENCED CIVIL ACTION:

1. All discovery materials;
2. All depositions, investigative reports, witness statements and reports of interviews;
3. All remittance reports submitted to the related Funds;
4. Dates of birth of the plaintiffs and the defendants in the above-referenced Civil Action;
5. All Collective Bargaining Agreements entered into by the defendants or their representatives in the above referenced case;
6. All shop steward reports submitted by the defendants;
7. Any audits conducted by the plaintiffs relating to the defendants named in the above referenced Civil Action;
8. All correspondence between the plaintiffs and defendants including, but not limited to, communications referencing third party banking institutions, vendors and the National Union Fire Insurance Company.

In lieu of an appearance you may comply with this subpoena by providing the requested information, along with a business records certification pursuant to Fed. R. Evid. 803(6), on or before June 24, 2015 to Criminal Investigator Marcus Rivera, United States Attorney's Office, Eastern District of New York, 271 Cadman Plaza East, Brooklyn, New York 11201. Criminal Investigator Rivera may be reached at (718) 254-7214,